

TOWN OF NORTH BRENTWOOD

ORDINANCE NO. 2017- 07

Introduced by: Councilmember Wiley

Seconded by: Councilmember Baynes

Date of Introduction: October 2, 2017

An ordinance of the of the Town of North Brentwood, Maryland amending Chapter III (Streets and sidewalks), by adding a new Article 4 (Sump Pumps or Other Drainage Entering the Town’s Rights-of-Way) to said Chapter of the Code of Ordinances of the Town of North Brentwood, Maryland, requiring that a permit be issued for any sump pump discharge or other clear water drainage to be allowed to flow onto, within or across a public street, right-of-way or sidewalk under the jurisdiction of the Town, and further providing for a permit application and notice process to allow certain discharges into a Town designed infiltration or other system to be installed with the right-of-way, and further providing for certain waivers, fees and penalties pertaining thereto; and generally relating to the regulation, maintenance and control of municipal streets and sidewalks.

WHEREAS, the Town is authorized by Section § 602(14) of its Charter with the authority to compel the occupant of any premises or building in the Town, when it has become filthy or unwholesome, to abate or cleanse the condition; and, after reasonable notice to the owners or occupants, to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants; and

WHEREAS, the Town is authorized by Section § 602(27) of its Charter with the authority to prevent, prohibit or abate by appropriate ordinance all nuisances in the Town which are so defined at common law, by this Charter, or by the laws of the State of Maryland or the Town; and

WHEREAS, the Town under § 602(34) of its Charter has control of all public ways in the Town to regulate the use of Town streets, roads, alleys, and sidewalks, and all other structures in, under or above the same and to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow, ice, debris and other obstructions; and

WHEREAS, the Town is further authorized by Section § 602(35) of its Charter with the authority to adopt and enforce within the corporate limits of the Town police, health, sanitary, building, traffic, parking, and other similar regulations not in conflict with the laws of the State of Maryland or the Charter; and

WHEREAS, the Town has the power pursuant to § 1004 of its Charter to require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions, and to require and order the owner of any property abutting on any public way in the

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Town to perform any project authorized by this said section at the owner's expense according to reasonable plans and specifications, and if, after due notice the owner fails to comply with the order within a reasonable time, the Town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are Town taxes or by suit at law; and

WHEREAS, the Mayor and Council find that the diversion or channeling of clear water drainage by private property owners onto or within the Town's streets and rights-of-way, and any other alterations or improvements made thereto by abutting property owners may cause damage or create a nuisance that reduces the level of service, increases pollution, degrades the lifespan of the Town's streets and sidewalks, or may otherwise interfere with the public's use and enjoyment of the public ways; and

WHEREAS, the Mayor and Council find it to be in the best interest of the Town to address a compelling need to supplement or revise the Town's street and sidewalk related ordinance provisions, as set forth and codified in Chapter III (Streets and Sidewalks) of the Town Ordinance Code, in order to protect the health, welfare and safety of the public by regulating the manner in which homeowners, occupants, and other property owners discharge or divert the flow of water from their properties, alter the existing state and character of the Town's public ways, or otherwise make or have made certain modifications thereto; and

WHEREAS, the Mayor and Council has made or plans to make substantial expenditures toward improving and upgrading Town streets and sidewalks, and intends to eliminate, treat or mitigate certain sump pump and eves spout discharges or other clear water drainage flowing onto or across a public street, right-of-way or sidewalk under the jurisdiction of the Town thereby further minimizing the amount of pollutants discharged into the tributaries of the Chesapeake Bay.

SECTION 1.

NOW THEREFORE BE IT ORDAINED by the Council of the Town of North Brentwood that Chapter III "Streets and Sidewalks" of *The North Brentwood Town Code* is hereby adopted, amended and/or re-enacted such that said Chapter and Code shall henceforth read as follows:

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CHAPTER III.

STREETS AND SIDEWALKS

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ARTICLE 4. SUMP PUMPS OR OTHER DRAINAGE ENTERING THE TOWN'S RIGHTS-OF-WAY

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TITLE 1. GENERAL

SECTION 3-4101 DEFINITION

“CLEAR WATER DRAINAGE” FOR THE PURPOSE OF THIS ARTICLE IS DEFINED AS STORM WATER, NATURAL PRECIPITATION, GROUND WATER, OR FLOW FROM ROOF RUNOFF, SURFACE RUNOFF, SUBSURFACE DRAINAGE, DOWN SPOUTS, EAVE TROUGHS, RAINSPOUTS, YARD DRAINS, SUMP PUMPS, FOUNDATION DRAINS, YARD FOUNTAINS, PONDS, CISTERN OVERFLOWS OR WATER DISCHARGED FROM ANY AIR CONDITIONING UNIT OR SIMILAR SYSTEM.

SECTION 3-4102 SUMP PUMP INSTALLATIONS

A. SUMP PUMPS MAY BE INSTALLED IN HABITABLE PREMISES LOCATED WITHIN THE TOWN FOR THE PURPOSE OF DISCHARGING CLEAR WATER FROM FOUNDATION DRAINS AND GROUND INFILTRATION.

B. A SUMP PUMP SHALL DISCHARGE EITHER UNDERGROUND INTO AN APPROVED INFILTRATION TRENCH, NATURAL SWALE OR ONTO THE GROUND AT LEAST TEN (10) FEET FROM THE TOWN RIGHT OF WAY OR ANY BUILDING AND ABOVE GRADE UNLESS A VALID PERMIT STATES OTHERWISE.

C. ANY SUMP PUMP DISCHARGE OR OTHER CLEAR WATER DRAINAGE SHALL NOT BE ALLOWED TO FLOW ONTO OR ACROSS A PUBLIC STREET, RIGHT-OF-WAY OR SIDEWALK UNDER THE JURISDICTION OF THE TOWN, NOR SHALL ANY SUMP PUMP DISCHARGE OR SIMILAR DRAINAGE BE ALLOWED TO ACCUMULATE ONTO AN ADJOINING LOT. NO DOWN SPOUTS FROM EAVES OR ANY OTHER CLEAR WATER DRAINAGE SHALL BE ALLOWED TO DISCHARGE ONTO ANY PUBLIC STREET, RIGHT-OF-WAY OR SIDEWALK.

TITLE 2. ORDERS TO DISCONNECT OR RECONNECT

SECTION 3-4201 ORDERS TO CEASE DISCHARGE

WHEN ORDERED BY THE TOWN OR ITS AUTHORIZED AGENT, A PROPERTY OWNER OR OCCUPANT SHALL CEASE TO DISCHARGE HIS OR HER SUMP PUMP LINE ONTO A TOWN STREET, SIDEWALK, RIGHT-OF-WAY OR OTHER ABUTTING PROPERTY AND EITHER CONNECT TO A TOWN INSTALLED INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEATURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY OR A NATURAL SWALE LOCATED ON THE OWNER’S PROPERTY, OR OTHERWISE DISCHARGE THE SUMP PUMP LINE ABOVE GROUND ON THE OWNER’S PRIVATE PROPERTY.

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TITLE 3. PERMITS, APPLICATIONS, FEES AND WAIVERS

SECTION 3-4301 DISCHARGE CONNECTION PERMITS

A. SHOULD A PROPERTY OWNER WISH TO CONNECT INTO AN INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEASURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY, THE OWNER OR OCCUPANT MUST FIRST OBTAIN A PERMIT FROM THE TOWN AND, UNLESS WAIVED BY THE TOWN, PROVIDE A DETAILED DRAWING OF THE PROPOSED INSTALLATION.

B. PRIOR TO BACKFILLING THE LINE, THE CODE ENFORCEMENT OFFICER OR THE TOWN'S ENGINEER SHALL INSPECT THE LINE FOR PROPER INSTALLATION. THE COSTS OF CONNECTING FROM THE BUILDING OR RESIDENCE TO AN INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEASURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY SHALL BE PAID BY THE OWNER. AN INFILTRATION TRENCH, DRAINAGE SYSTEM OR OTHER FEASURE DESIGNED AND INSTALLED BY THE TOWN SHALL BE PAID FOR BY THE TOWN.

C. NO PERMIT SHALL BE REQUIRED IF THE OWNER OR OCCUPANT DISCHARGES CLEAR WATER DRAINAGE TO A NATURAL SWALE LOCATED WHOLLY ON THE OWNER'S PROPERTY, OR OTHERWISE DISCHARGES THE SUMP PUMP LINE OR OTHER DRAINAGE ABOVE GROUND ON THE OWNER'S PRIVATE PROPERTY SUCH THAT NO CLEAR WATER DRAINAGE SHALL BE ALLOWED TO ACCUMULATE OR FLOW ONTO ANY OTHER OWNER'S PROPERTY INCLUDING THE TOWN RIGHT-OF-WAY.

SECTION 3-4302 PERMIT APPLICATIONS

A WRITTEN REQUEST FOR A PERMIT TO DISCHARGE CLEAR WATER DRAINAGE INTO A TOWN DESIGNED INFILTRATION TRENCH, SWALE, DRAINAGE SYSTEM OR OTHER FEATURE LOCATED WITHIN THE TOWN RIGHT-OF-WAY SHALL DEMONSTRATE THAT THE OWNER'S OR OCCUPANT'S EXISTING DISCHARGE POINT PRODUCES A SIGNIFICANT VOLUME OF WATER DURING DRY PERIODS (I.E., NOT WITHIN 24 HOURS OF MEASURABLE RAINFALL) OR SOME OTHER RELATED CONDITION UNIQUE TO THE PROPERTY THAT WOULD PRESENT A PRACTICAL DIFFICULTY OR UNDUE HARDSHIP IN COMPLYING WITH THIS ARTICLE. SAID DOCUMENTATION SHALL FURTHER INCLUDE:

1. PHOTOGRAPHS OF THE DISCHARGE. PHOTOGRAPHS MUST BE TIME STAMPED AND MUST NOT BE TAKEN WITHIN 24 HOURS OF SIGNIFICANT RAINFALL (GREATER THAN TWO INCHES IN A 24-HOUR TIMESPAN);

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2. FOR SUMP PUMP PERMIT APPLICATIONS, PROVIDE THE CAPACITY OF ANY SUMP PUMPS, HOW OFTEN THE PUMP RUNS DURING DRY PERIODS, AND AN EXPLANATION OF THE NATURE OF THE DISCHARGE AND WHY IT IS NOT FEASIBLE FOR WATER TO BE DETAINED ON THE SUBJECT PROPERTY;
3. FOR ROOF DRAIN PERMIT APPLICATIONS, PROVIDE AN EXPLANATION OF WHY IT IS NOT FEASIBLE TO DISCHARGE ONTO THE OWNER'S OWN LAWN OR TO INSTALL A RAIN BARREL OR SIMILAR COLLECTION DEVICE;
4. FOR ALL OTHER APPLICATIONS, PROVIDE A DETAILED EXPLANATION OF THE NATURE OF THE DISCHARGE AND WHY IT IS NOT FEASIBLE FOR WATER TO BE DETAINED ON THE SUBJECT PROPERTY;
5. ANY PRIOR PERMISSIONS OR PERMITS ISSUED FOR THE EXISTING OR PRIOR DISCHARGE; AND
6. ANY OTHER PERTINENT INFORMATION REQUESTED BY THE TOWN OR ITS AGENT.

SECTION 3-4303 FEEES

UNLESS THE FEE IS WAIVED FOR A DISCHARGE WITHIN THE RIGHT-OF-WAY THAT PRE-EXISTED THE EFFECTIVE DATE OF THIS ARTICLE, THE TOWN MAY CHARGE A PERMIT FEE OF \$100 FOR ANY APPLICATION MADE UNDER THIS ARTICLE. THE COUNCIL MAY MODIFY SAID FEE BY RESOLUTION PASSED FROM TIME TO TIME.

SECTION 3-4304 WAIVERS

THE STRICT REQUIREMENTS OF THIS ARTICLE INCLUDING ANY DEADLINE OR FEE REQUIRED PURSUANT TO THIS ARTICLE MAY BE EXEMPTED, WAIVED OR OTHERWISE MODIFIED BY THE COUNCIL FOR ANY DISCHARGE EXISTING PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE.

TITLE 4. NOTICE AND REVIEW

SECTION 3-4401 NOTICE AND REVIEW OF UNLAWFUL DISCHARGES

A. PROVIDED THAT EACH OWNER OR OCCUPANT AFFECTED SHALL BE GIVEN AT LEAST THIRTY (30) DAYS WRITTEN NOTICE DELIVERED BY FIRST CLASS U.S. MAIL, POSTING ON THE PROPERTY IN A CONSPICUOUS LOCTION, OR PERSONAL DELIVERY AS CERTIFIED BY A TOWN OFFICIAL, THE MAYOR OR OTHER AUTHORIZED

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OFFICIAL OR AGENT MAY ORDER THE REMOVAL AND ABATEMENT OF ANY UNLAWFUL DISCHARGES LOCATED WITHIN OR DIRECTLY FLOWING INTO THE TOWN'S PUBLIC RIGHTS-OF-WAY AND/OR ANOTHER OWNER'S PRIVATE PROPERTY.

B. ALL PETITIONS OR REQUESTS FOR A PERMIT, WAIVER OR MODIFICATION FILED PURSUANT TO THIS ARTICLE SHALL BE DELIVERED TO THE MAYOR OR HER DESIGNEE BY THE DEADLINE INDICATED ON THE PETITION OR APPLICATION FORM PREPARED BY THE APPLICANT AND DELIVERED BY THE TOWN OR AS OTHERWISE STATED IN THE ORDER OR WRITTEN NOTICE SUPPLIED TO THE OWNER OR OCCUPANT PURSUANT TO THIS ARTICLE.

C. IN THE EVENT AN OWNER OR OCCUPANT FILES A TIMELY APPLICATION OR PETITION FOR A PERMIT, WAIVER OR MODIFICATION (I.E., WITHIN THIRTY (30) DAYS) PURSUANT TO THIS ARTICLE AFTER THE TOWN HAS SERVED A CEASE AND DESIST ORDER REGARDING AN UNLAWFUL DISCHARGE, ENFORCEMENT OF SAID ORDER SHALL BE STAYED UNTIL A DETERMINATION HAS BEEN MADE REGARDING THE APPLICATION OR PETITION.

D. PETITIONS OR REQUESTS FOR PERMITS, WAIVERS OR MODIFICATIONS SHALL BE REVIEWED BY THE TOWN'S ENGINEER OR THE MAYOR'S DESIGNEE AND RECOMMENDATIONS SHALL BE PROVIDED TO THE TOWN COUNCIL. A FINAL DETERMINATION INCLUDING ANY CONDITIONS SHALL BE MADE AT A TOWN COUNCIL HEARING OR A SUBSEQUENT TOWN MEETING HELD WITHIN NINETY (90) DAYS OF THE FILING OF A PETITION OR REQUEST. NOTICE OF THE HEARING DATE FOR ONE OR MORE PROPERTIES SHALL BE SENT BY FIRST CLASS U.S. MAIL TO EACH APPLICANT OR PETITIONER AT LEAST SEVEN (7) DAYS PRIOR TO THE HEARING. THE FINAL DETERMINATION OR DECISION SHALL BE PLACED IN WRITING STATING THE COUNCIL'S FACTUAL FINDINGS AND LEGAL CONCLUSIONS WITHIN NINETY (90) DAYS OF THE HEARING.

TITLE 5. APPEALS, PENALTIES AND LIENS

SECTION 3-4501 APPEALS REGARDING PERMITS AND WAIVERS

ANY APPLICANT, PETITIONER OR ABUTTING OWNER AGGRIEVED BY A DECISION OF THE TOWN COUNCIL SPECIFICALLY WITH REGARD TO A PETITION OR APPLICATION FOR A PERMIT, WAIVER OR MODIFICATION FILED UNDER THE PROVISIONS OF THIS ARTICLE AND WHO APPEARED BEFORE THE TOWN COUNCIL IN PERSON, BY AN ATTORNEY, OR IN WRITING, SHALL HAVE THE RIGHT TO APPEAL ON THE RECORD THE DECISION OF THE TOWN COUNCIL TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND UNDER THE PROVISIONS OF TITLE 7, CHAPTER 200 OF THE MARYLAND RULES OF PROCEDURE.

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SECTION 3-4502 PENALTIES AND LIENS

A. MUNICIPAL INFRACTION. THE FAILURE OF AN OWNER OR OCCUPANT TO OBSERVE AND COMPLY WITH THE DUTIES, ORDERS OR REQUIREMENTS OF THIS ARTICLE SHALL BE LIABLE FOR A MUNICIPAL INFRACTION CARRYING A FINE OF \$250. EACH ADDITIONAL THIRTY (30) DAYS THAT A VIOLATION EXISTS OF THIS SECTION SHALL BE DEEMED A SEPARATE VIOLATION SUBJECT TO AN ADDITIONAL \$250 FINE.

B. LIEN ON REAL PROPERTY. PROVIDED THE OWNER OF RECORD HAS RECEIVED OR BEEN MAILED PROPER NOTICE PURSUANT TO THIS ARTICLE, ANY CORRECTIVE ACTION OR ABATEMENT TAKEN BY THE TOWN PURSUANT TO COURT ORDER, AND ANY PENALTIES OTHERWISE ASSESSED BY THE DISTRICT COURT OF MARYLAND FOR PRINCE GEORGE'S COUNTY PURSUANT TO THIS ARTICLE SHALL BE CONSIDERED A LIEN IN FAVOR OF THE TOWN ON THE SUBJECT PROPERTY AND MAY BE COLLECTED AND ENFORCED IN THE SAME MANNER AS DELINQUENT REAL PROPERTY TAXES.

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SECTION 2.

AND BE IT FURTHER ORDAINED AND ENACTED, that it is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become or continue to be made part of the Code of Ordinances and the sections of this Ordinance may be renumbered to accomplish such intention, and that Chapter III of the Code of Ordinances is hereby permanently amended to read as stated herein above.

SECTION 3.

AND BE IT FURTHER ORDAINED AND ENACTED, that any other prior ordinances adopting and enacting any provision of Chapter III of said Code or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this ordinance or the provisions found herein shall be deemed repealed and superseded by the provisions of this ordinance, but should a previously enacted ordinance cover a provision or subject that is not specifically covered by this ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this ordinance.

SECTION 4.

AND BE IT FURTHER ORDAINED AND ENACTED, if any section or part of a section of this Ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not

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affect the remainder of this Ordinance nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

SECTION 5.

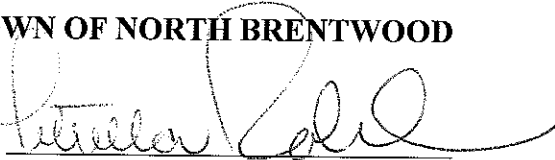
AND BE IT FURTHER ORDAINED AND ENACTED, this Ordinance shall take effect and become effective at the expiration of eleven (11) calendar days following adoption by the Council, and approval by the Mayor or passage by the Council over the Mayor's veto unless a different effective date has been specified therein.

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE TOWN OF NORTH BRENTWOOD THIS 2nd DAY OF October, 2017.

Aye: 2
Nay: 0
Absent: 0
Abstain: 0
Vacant: 1

Approved:

TOWN OF NORTH BRENTWOOD

By: 
Petrella Robinson, Mayor

Date: 10/2/2017

CERTIFICATE

I HEREBY CERTIFY on this 2nd day of October, 2017, that the above proposed ordinance was posted on an official bulletin board maintained by the Council in a public place until it was approved or disapproved pursuant to the Town Charter.


Town Clerk

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